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LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY, CA 92708

In re Application of :
Kelly Kleinman :
Application No. 10/712,230 :
Filed: November 13, 2003 :
Attorney Docket No. Celebrity.01 :

COPY MAILED

DEC 21 2004

OFFICE OF PETITIONS

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application.

The petition is dismissed because it lacks the required petition fee pursuant to 37 CFR 1.17(m).

Effective October 1, 2004, the small entity fee for a petition to revive an unintentionally abandoned application was increased to \$685. Using a Certificate of Mailing or Transmission dated October 1, 2004, petitioner submitted a partial petition fee payment in the form of a check for \$665. There is no authorization found in the papers filed October 4, 2004 to charge any fee deficiency. Unfortunately, the petition fee was further increased to \$750 effective December 8, 2004. Since any fee paid on or after December 8, 2004, must be paid at the revised amount, petitioner must now submit the petition fee deficiency of \$85.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include the \$85 petition fee deficiency and a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450



Application No. 10/712,230

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By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is (703) 872-9306.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

O I P E JAN 18 2005

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

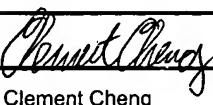
Total Number of Pages in This Submission

Application Number	10/712,230
Filing Date	11/13/2003
First Named Inventor	Kelly Kleinman
Art Unit	3712
Examiner Name	MILLER BEN A B

Attorney Docket Number

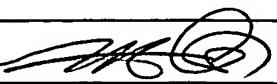
ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): 1. Return Post Card 2. Fee transmittal 3. A copy of USPTO's decision in response to the petition filed 10/4/2004
Remarks This is a response to the rejection on the petition filed on 10/4/2004: the petition fee increased and deficiency of \$85 needs to be submitted. <small>Faxed to: 703-672-6306</small>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Law Offices of Clement Cheng		
Signature			
Printed name	Clement Cheng		
Date	11/13/05	Reg. No.	45463

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	
Typed or printed name	Miyako Omori
Date	11/13/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

JAN 18 2005

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MAC
Jan

FEE TRANSMITTAL
For FY 2005

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

Complete if Known Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$ 85.00)

Application Number 10/712,230

Filing Date 11/13/2003

First Named Inventor Kelly Kleinman

Examiner Name MILLER BENA B

Art Unit 3712

Attorney Docket No.

METHOD OF PAYMENT (check all that apply) Check Credit Card Money Order None Other (please identify): _____ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

<input type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee
<input type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17	<input type="checkbox"/> Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

<u>Application Type</u>	<u>FILING FEES</u>		<u>SEARCH FEES</u>		<u>EXAMINATION FEES</u>		
	<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>	<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>	<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>	<u>Fees Paid (\$)</u>
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEESFee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Small Entity</u>	
				<u>Fee (\$)</u>	<u>Fee (\$)</u>

- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>	
				<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>

- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

01/21/2005 RFEKADU1 00000013 10712230

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01 FC:2453

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>

- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

Fees Paid (\$)

85.00

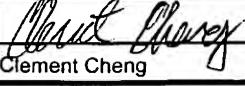
4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): deficiency: current petition filing fee \$750- previous filing fee \$665

85.00

SUBMITTED BY

Signature		Registration No. 45463 (Attorney/Agent)	Telephone 714-825-0555
Name (Print/Type)	Clement Cheng		Date 11/13/2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment date: 01/21/2005 RFEKADU1 00000013 10712230
JULY 15/2004 WABDELRI 00000084 10712230